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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,698	01/22/2001	Alan W. H. Grant	48971-023 (AWGK-001)	1729
53961	7590	01/16/2007		
FALKOWSKI PLLC P.O. BOX 650 NOVI, MI 48376-0650			EXAMINER CASLER, TRACI	
			ART UNIT	PAPER NUMBER
			3629	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 09/766,698	Applicant(s) GRANT, ALAN W. H.	
	Examiner Traci L. Casler	Art Unit 3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-4 and 9-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to papers filed on September 22, 2006.

Claim 1 is amended.

Claims 1, 3-4 and 9-21 are pending.

Claims 1, 3-4 and 9-21 are rejected.

### ***Specification***

1. The amendment filed September 22, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the amendment contains the limitation of "not a monetary amount" for a behavior value. The disclosure as originally presented does not support this material as not specifically identifying what a value can or can't be for a behavior. By precluding a monetary value from a behavior value applicant is making the claims narrower than the specification. This deems that one of ordinary skill in the art would not reasonably convey that a value cannot include a monetary value.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1 and 3 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had

possession of the claimed invention. The added material which is not supported by the original disclosure is as follows: the amendment contains the limitation of "not a monetary amount" for a behavior value. The disclosure as originally presented does not support this material as not specifically identifying what a value can or can't be for a behavior. By precluding a monetary value from a behavior value applicant is making the claims narrower than the specification. This deems that one of ordinary skill in the art would not reasonably convey that a value cannot include a monetary value.

3. Claims 1, 3-4 and 9-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims are directed to limitations which are not supported by the specification that would reasonably allow one of ordinary skill in the art at the time of invention to make and/or use the invention.

4. The disclosure fails to teach how one identifies the "cost to an entity" for an exchange element. How does one know to what extent a element costs an entity? How does what come about determining the value of the cost? What information is used in identifying the cost? How does the cost vary according to constituent populations.

5. The disclosure further fails to identify how one determines what behavior is and how a value is given to that behavior. Who determines what behaviors are used? Are the same behaviors use for all populations? Who determines the value of the behavior and what is used in determining the value?

6. The disclosure additionally fails to teach how one determines a exchange gap. How is a gap determined using a behavior and an exchange element. An exchange element has is claimed as a cost and the behavior is a non-monetary? Who are two types of values used in this quantification?

7. The disclosure further fails to identify the limitation of claim 4 of associating one or more exchange gaps. It is claimed to represent a value different between what is expected and what is offered. Again, this contain two different types of values, how are the different values capable of being used to determine a gap. Additionally, neither the values have not been determined for either the constituent or entity to be used in any type of different calculation.

***Claim Rejections - 35 USC § 101***

8. Claims 1, 3-4 and 9-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a claim to be considered statutory it must produce a useful, concrete and tangible result. These rejections are being directed towards the “concreteness” of the invention as claimed. In order for the result produced to be considered concrete it must be reproducible. Applicant fully admits that one individual could obtain different results based on their mood for the day. This is then a subjective analysis of information which cannot even be reproduced by the same user when completely the same steps. The applicant supplies no objective fact base clues or rules as to how any of the values are identified or how one comes to a conclusion of a cost.

9. In view of the fact that any comparison is made by comparing the exchange element cost and the behavior values not being of industry standard or mathematically derived in a standard manner but rather a comparison of two different this being an abstract idea, no concrete way of completing a comparison and generating consistent results. Applicants claims are doing a comparison of apples to oranges rather than apples to apples without any guidance for what criteria is used for the comparison.

\*\*\*\*\*IN VEIW OF THE ABOVE REJECTIONS UNDER 35 USC 112 AND 101 THE EXAMINER HAS APPLIED ART AS THE INVENTION IS BEST UNDERSTOOD\*\*\*

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 3-4 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Harvard Business Review: Realize Your Customers Full Profit Potential; Alan WH Grand and Leaonard A. Schlesinger; 09/1995.

12. The applicants invention is disclosed the noted non-patent literature article as being disclosed in a public manner almost five years prior to filing any type of patent application. The article teaches productivity model that uses a value exchange; which is a relationship between a company and it's customer and how the customer responds to a company's offerings. Companies use the value exchange for "defining their target

customer base, quantifying the current and full-potential value of these relationships and commit the entire company to closing the gap between the two.

***Response to Arguments***

13. Applicant's arguments filed September 22, 2006 have been fully considered but they are not persuasive.

14. Applicant is requested in the further to identify at least page numbers and or line number of specifications they are reciting as support. The specification does not contain paragraph numbers and the examiner is unable to determine which sections the applicant is quoting.

15. As to applicants arguments regarding the "subjectivity" of issued patents the examiner notes that issued patents are not precedential on the USPTO to make the same decision. Furthermore, it's is not the examiners position to comment on currently issued patents.

16. As to applicants arguments regarding exchange elements and behaviors. Applicant recites a section from the specification however fails to identify any exchange elements in cost values as claimed and further more does not teach how a behavior value is determined. It identifies what possible behaviors can be for one industry(not comprehensive for all/any industry as claimed) but does not teach how one sets a value for the identified behaviors

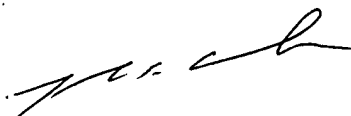
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler(formerly Smith) whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TLC  


  
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